

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**Civil Action No. 2:21-cv-00316
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY
BOARD OF EDUCATION, WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION, W.
CLAYTON BURCH in his official capacity as
State Superintendent, and DORA STUTLER
in her official capacity as Harrison County
Superintendent, PATRICK MORRISEY in
his official capacity as Attorney General, and
THE STATE OF WEST VIRGINIA,**

Defendants.

REPORT OF THE PARTIES' RULE 26 PLANNING MEETING

1. The following persons participated in Rule 26(f) conference meetings on August 20, 2021, and on August 27, 2021, where they considered all matters required by Fed. R. Civ. P. 16 and 26(f) and L.R. Civ. P. 16.01(b):

Loree Stark, Esq., Julie Veroff, Esq., Taylor Brown, Esq., Andrew Barr, Esq., Avatara Smith-Carrington, Esq. representing the Plaintiff, B.P.J., by her next friend and mother, Heather Jackson.

Roberta F. Green, Esq. and Anthony E. Nortz, Esq. representing the Defendant, West Virginia Secondary School Activities Commission.

Susan Llewellyn Deniker, Esq. representing the Harrison County Board of Education and Dora Stutler in her official capacity as Harrison County Superintendent.

Kelly C. Morgan representing the West Virginia State Board of Education and W. Clayton Burch in his official capacity as West Virginia State Board of Education Superintendent.

Curtis R. A. Capehart representing the State of West Virginia and Patrick Morrissey in his official capacity as Attorney General for the State of West Virginia.

2. Jury Trial: This issue has been fully briefed and is currently pending before the Court.
3. The Court scheduled a Scheduling Conference for September 20, 2021.
4. Discovery Plan. The parties jointly propose this discovery plan:
 - (a) Discovery will be needed on all claims and defenses as asserted in the Complaint and Defendants' responsive pleadings.
 - (b) Discovery shall be completed on or before March 25, 2022.
 - (c) All written discovery requests shall be filed on or before February 11, 2022.
 - (d) The parties have discussed the preservation, discovery, and disclosure of electronically stored information (ESI) and have determined that one or more parties will likely seek discovery of ESI such as emails, files, or documents stored on a server or computer.

Plaintiff B.P.J.'s and Defendants Harrison County and Dora Stutler's Position: ESI productions should comply with the protocol set forth in Exhibit A attached to this document.

Defendant School Activities Commission's Position: ESI productions should comply with the protocol set forth in Exhibit B attached to this document.

Defendants State of West Virginia and Patrick Morrissey's Position: Expect to be able to agree with Exhibit A or B.

Defendants West Virginia State Board of Education and W. Clayton Burch's Position: Expect to be able to agree with Exhibit A or B.
 - (e) The parties agree that the number of interrogatories, requests for production, and requests for admission shall be regulated by the Federal Rules of Civil Procedure.
 - (f) The parties do not believe that, at this time, it is prudent to limit the number of depositions in this matter. However, all discovery depositions must be conducted by March 25, 2022. All depositions shall be governed by the Federal Rules of Civil Procedure.
5. The parties agree to have a United States Magistrate Judge resolve any discovery disputes in this matter. However, the parties do not consent to a United States Magistrate Judge presiding over the trial of this matter.
6. The parties agree that Plaintiff shall disclose all experts retained under Rule 26(a)(2)

and expert reports shall be due on or before December 3, 2021. The parties agree that Defendants shall disclose all experts retained under Rule 26(a)(2) and expert reports shall be due on or before January 21, 2022. The parties agree that rebuttal experts and reports shall be disclosed on or before February 18, 2022.

7. Plaintiff and Defendants should be allowed until October 20, 2021, to join additional parties and amend the pleadings.
8. The Parties agree and request that dispositive motions be filed on or before April 11, 2022, responses to dispositive motions be filed on or before May 2, 2022, and replies be due on or before May 23, 2022.
9. The Parties agree and request a mediation deadline of May 25, 2022.
10. The Parties agree and request a date of settlement meeting and Rule 26(a)(3) disclosure deadline of June 20, 2022.
11. The Parties agree and request that Plaintiff's portion of Pretrial Order be due to Defendants on June 27, 2022.
12. The Parties agree and request that the Integrated Pretrial Order be due on June 30, 2022.
13. The Parties agree and request a Pretrial conference on July 11, 2022.
14. The Parties agree and request that proposed findings of fact and conclusion of law be due on July 11, 2022.
15. The Parties agree and request that the final settlement conference date be July 22, 2022.
16. This matter should be ready for trial by July 25, 2022, and the parties request four (4) days for trial.

Dated: September 7, 2021

/s/ Loree Stark
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